



Dan Skopec
Acting Secretary

California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger
Governor

Certified Mail: 7000 0600 0027 1155 1850

April 14, 2006

Chief John Becker
City of Victorville Fire Department
P.O. Box 5001
Victorville, CA 92393

Chief Becker:

The California Environmental Protection Agency (Cal/EPA), [Office of Emergency Services, and the Department of Toxic Substances Control, conducted a program evaluation of the City of Victorville Fire Department Certified Unified Program Agency (CUPA) on November 10, 2005. The evaluation consisted of a review of program elements, an in-office program review and field inspections. Following the evaluation, the state evaluators completed an Evaluation Summary of Findings, which was reviewed with your agency's program management.

The evaluation summary of findings includes identified deficiencies, corrective action to be taken and timeframes for correction of identified deficiencies. Two additional evaluation documents completed during the evaluation are the Program Observations and Recommendations and the Examples of Outstanding Program Implementation.

I have reviewed the enclosed copy of the Evaluation Summary of Findings and I find that City of Victorville Fire Department CUPA program performance is satisfactory with some improvement needed. To update our files on your progress toward correcting the identified deficiencies, please provide a status report, using the attached format, within 30 days from receipt of this letter.

Cal/EPA also noted during this evaluation that the City of Victorville Fire Department CUPA has worked to bring about a number of outstanding program implementations, including the coordination of regular meetings to consult with other CUPA's in the region and other non-CUPA agencies to promote consistency and foster good working relations and a 25% increase in the number of regulated businesses due to initiation of a special project to identify businesses handling large carbon dioxide tanks. We will be sharing these outstanding implementation examples with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

Chief Becker
April 14, 2006
Page 2

Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosures

cc: Mr. Greg Coon, Hazardous Materials Specialist (Sent Via Email)
City of Victorville Fire Department
P.O. Box 5001
Victorville, CA 92393

Mr. John Paine (Sent Via Email)
California Environmental Protection Agency
1001 I Street, 4th Floor
Sacramento, CA 95814

Ms. Loretta Sylve (Sent Via Email)
California Environmental Protection Agency
1001 I Street, 4th Floor
Sacramento, CA 95814

Mr. Mark Pear (Sent Via Email)
Department of Toxic Substance Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

Mr. Fred Mehr (Sent Via Email)
Governor's Office of Emergency Services
P.O. Box 419047
Rancho Cordova, California 95741-9047

Chief Becker
April 14, 2006
Page 3

Ms. Liz Haven (Sent Via Email)
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Mr. Charles McLaughlin (Sent Via Email)
Department of Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806

Ms. Vickie Sacamoto (Sent Via Email)
Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Mr. Moustafa Abou-Taleb (Sent Via Email)
Governor's Office of Emergency Services
P.O. Box 419047
Rancho Cordova, California 95741-9047



STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY



Alan C. Lloyd, Ph.D.
Agency Secretary

CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION
SUMMARY OF FINDINGS

Arnold
Schwarzenegger
Governor

CUPA: Victorville City Fire Department

Evaluation Date: November 10th, 2005

EVALUATION TEAM

Cal/EPA: John Paine

DTSC: Mark Pear

OES: Fred Mehr

This Summary of Findings includes the deficiencies identified during the evaluation, observations and recommendations for program improvement, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to John Paine at (916) 327-5092.

	<u>Deficiency</u>	<u>Preliminary Corrective Action & Timeframe</u>
1	The Enforcement Actions taken by the CUPA are not being reporting on the Annual Enforcement Summary Reports. Although the CUPA has taken both informal and formal enforcement actions during the past three fiscal years, the summary reports indicate that "0" actions were taken. The CUPA Program Manager did not provide the enforcement counts on the summary reports due to a misunderstanding of what type of enforcement actions are to be reported.	All enforcement actions taken in the current and future fiscal years will be reported on the Annual Enforcement Summary Reports.
2	The CUPA's final dispositions of their enforcement actions are not being adequately documented, which may be an order, stipulated judgment, or other formal document. The cases cited below are examples for the CUPA completed enforcement actions but failing to formally document the final disposition of the action: <ul style="list-style-type: none">Sears, Roebuck and Company – CUPA notified business of the potential filing of an enforcement action with the County District Attorney, concerning the release of battery acid. The official record of this action did not include	For all future enforcement action, document the final disposition of the enforcement action formally with a signed settlement agreement, stipulated order, or other applicable form of documentation.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

	<p>information concerning the final disposition (i.e. Settlement Agreement), which should have been drafted and signed by the owner/operator as to reflect agreed upon correction actions and payment of a \$4500 penalty.</p> <p>As a result of actions taken and the actions not taken by a facility employee during a hazardous material spill, the CUPA notified the facility of the potential filing of an enforcement action. A gasoline spill occurred at the gas station due to the accident severing of the fill hose at the dispenser. The employee on duty handled the situation poorly by failing to immediately report the release and not taken the appropriate response actions to protect or minimize public exposure. The facility agreed to the immediate correct the violation and paying a \$4000 penalty.</p>	
--	--	--

CUPA Representative

(Print Name)

(Signature)

Evaluation Team Leader

(Print Name)

(Signature)

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

1. **Observation:** The City of Victorville Emergency Response Plan was missing the optional model reporting form.

Recommendation: The City of Victorville CUPA should include the optional model reporting form.

3. **Observation:** The CUPA has not been documenting in its inspection reports that consent has been granted by the owner/operator to enter his place of business to conduct a hazardous waste generator inspection

Recommendation: Develop an inspection report to document that consent has been granted by the owner/operator on the form. Documentation of consent only serves to strengthen any potential enforcement case defeating any potential challenge that the 4th amendment may have been abridged.

4. **Observation:** The CUPA's Inspection Reports do not segregate Class I violations and chronic Class II violations under a Summary of Violations from minor violations under a Notice to Comply or to identify whether the violation is Class I, Class II, or minor in the inspection report.

Recommendation: The CUPA may wish to modify its inspection report to classify violations in order to distinguish between enforcement modes (formal vs. informal) for Class I, Class II and minor violations.

5. **Observation:** The CUPA re-inspects all facilities to determine whether or not a facility has returned to compliance. This is an excellent practice providing the CUPA has the manpower to carry this out. Revisiting each facility is the best approach to adopt to determine whether a facility has returned to compliance. The CUPA also has the option of allowing facility representatives to submit a Return to Compliance Certification to certify that corrections have been completed for minor violations cited during a previous inspection.

Recommendation: Keep up the good work. If in the future re-inspecting all facilities becomes unmanageable, the CUPA does have the option of allowing facility representatives to submit a Return to Compliance Certification within 30 days of the date of inspection.

6. **Observation:** The CUPA began developing a criminal case of the illegal disposal of "gasoline" by taking the detailed testimony of a former employee; however, the case could not proceed because of insufficient evidence as determined by the DA.

Recommendation: As you are already aware, there is no substitute for hard physical evidence such as the taking of photographs and samples, and providing laboratory results from a certified lab in order to support the testimony of witnesses and/or complainants.

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA Program in the City of Victorville is well organized and managed by the CUPA Manager. Outreach and compliance assistance is provided through various means, such as, the CUPA's website and customer satisfaction survey used to solicit public comments. Permits are provided in a timely manner. To ensure adequate coordination and promote consistency within the County, the Victorville CUPA meets and consults on a regular basis with the San Bernardino CUPA, other CUPAs in the region, and other non-Unified Program agencies both internal to the City and external. The CUPA has also maintained excellent documentation of training for CUPA staff, which includes cross-training plan to promote program standardization.
2. The CUPA has a comprehensive inspection program that exceeds the mandated frequencies for compliance inspections and combines all applicable program elements. The CUPA has established a goal to conduct compliance inspections annually. Although this goal was not achieved, the CUPA efforts are commended. In fiscal year 02/03 the CUPA inspected 57% of the business plan facilities, 100% of the UST facilities, and 47% of the generators. In fiscal year 03/04 inspected nearly 100% of the regulated businesses for all Unified Program elements. In fiscal year 04/05 the CUPA inspected 36% of the business plan facilities, 100% of the UST facilities, and 37% of the generators. The CUPA has inspected of all known facilities generating hazardous waste over the past three fiscal years. The last three annual inspection summary reports indicate the following:
 - 262 hazardous waste generators were identified in Fiscal Year 02/03 of which 133 were inspected.
 - 246 hazardous waste generators were identified in Fiscal Year 03/04 of which 244 were inspected.
 - 261 hazardous waste generators were identified in Fiscal Year 04/05 of which 97 were inspected.
3. During fiscal year 04/05 the CUPA increased approximately 25% their total number of regulated businesses for the Unified Program. This increase was primarily due to the CUPA's initiation of a special project to identify businesses handling large carbon dioxide tanks.
4. The CUPA has achieved nearly 100% single fee collection for the past several fiscal years. This is attributed to the CUPA's diligent efforts in timely follow-up actions for all invoices that are 60-day's delinquent, which includes "in-person" impromptu visits by CUPA staff.
5. Files were well organized by program element and by street address.